

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

DAVID ALLEN MOORE,

Plaintiff,

-against-

1:16-cv-0475 (LEK/CFH)

SAMUEL S. STRATTEN VETERANS
ADMINISTRATION HOSPITAL,

Defendant.

ORDER

This matter comes before the Court following a Report-Recommendation filed on June 3, 2016, by the Honorable Christian F. Hummel, U.S. Magistrate Judge, pursuant to 28 U.S.C. § 636(b) and Local Rule 72.3. Dkt. No. 11 (“Report-Recommendation”).

Within fourteen days after a party has been served with a copy of a magistrate judge’s report-recommendation, the party “may serve and file specific, written objections to the proposed findings and recommendations.” FED. R. CIV. P. 72(b); L.R. 72.1(c). If no objections are made, or if an objection is general, conclusory, perfunctory, or a mere reiteration of an argument made to the magistrate judge, a district court need review that aspect of a report-recommendation only for clear error. *Barnes v. Prack*, No. 11-CV-0857, 2013 WL 1121353, at *1 (N.D.N.Y. Mar. 18, 2013); *Farid v. Bouey*, 554 F. Supp. 2d 301, 306-07 & 306 n.2 (N.D.N.Y. 2008); see also *Machicote v. Ercole*, No. 06 Civ. 13320, 2011 WL 3809920, at *2 (S.D.N.Y. Aug. 25, 2011) (“[E]ven a *pro se* party’s objections to a Report and Recommendation must be specific and clearly aimed at particular findings in the magistrate’s proposal, such that no party be allowed a second bite at the apple by simply relitigating a prior argument.”). “A [district] judge . . . may accept, reject, or modify, in

whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b).

No objections were filed in the allotted time period. See Docket. The Court has reviewed the Report-Recommendation for clear error and has found none.

Accordingly, it is hereby:

ORDERED, that the Report-Recommendation (Dkt. No. 11) is **APPROVED and ADOPTED in its entirety**; and it is further

ORDERED, that Plaintiff’s Applications (Dkt. Nos. 7, 10) to proceed *in forma pauperis* are **GRANTED**; and it is further

ORDERED, that the following claims are **DISMISSED with prejudice**: (1) Plaintiff’s Bivens claims against Defendant Hospital; (2) Plaintiff’s Bivens claims against the unnamed guard/officer in his official capacity; and (3) Plaintiff’s claims for injunctive relief; and it is further

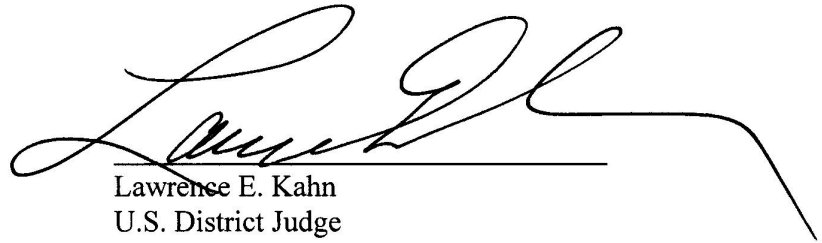
ORDERED, that Plaintiff’s speedy trial claims be **DISMISSED without prejudice** and with leave to amend to permit Plaintiff the opportunity to (a) explain how the unnamed hospital guard was involved in the alleged speedy trial violations and/or (b) name any other defendants who may have been involved and provide sufficient detail of such involvement; and it is further

ORDERED, that Plaintiff’s remaining claims survive initial review and require a response; and it is further

ORDERED, that the Clerk of the Court serve a copy of this Order on all parties in accordance with the Local Rules.

IT IS SO ORDERED.

DATED: June 30, 2016
Albany, NY



Lawrence E. Kahn
U.S. District Judge